

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte HEIDI RIEDEL, RAINER KROPKE,
and ANDREAS BLECKMANN

Appeal No. 2008-4076
Application 10/016,964
Technology Center 1600

Mailed: August 15, 2008

Before DALE M. SHAW, *Chief Appeals Administrator*,
SHAW, *Chief Appeals Administrator*.

ORDER REMANDING TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences on April 23, 2008. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matter requiring attention prior to docketing is identified below:

EXAMINER'S ANSWER

GROUND OF REJECTION TO BE REVIEWED UPON APPEAL

A review of the file finds that the grounds of rejection to be reviewed on appeal of the claims as provided in the Examiner's Answer mailed November 16, 2007, under the heading "Grounds of rejection to be Reviewed on Appeal" is either unclear or is not consistent with the grounds of rejection of claims set forth in the last Office action of record. The grounds of rejection to be reviewed on appeal as provided in the Examiner's Answer must be consistent with the last Office action of record, including any Advisory action responsive to any after final submissions. Furthermore, the examiner must provide a clear statement of whether examiner agrees or disagrees with the statement of grounds of rejection to be reviewed as set forth in the brief and an explanation of any disagreement. *See also Manual of Patent Examining Procedure* (MPEP) § 1207.02 (8th ed. Rev. 6, Sept 2007) for details.

A review of the Examiner's Answer finds that it is unclear of the nonstatutory obviousness-type double patenting rejection of claims 18-42 over claims 15-34, 43 of Application 10/469695; claims 16-31, 34-35, 45, 47, and 48 of 10/469696; claims 17-32, 35-36, and 47-48 of Application 10/469697; claims 14-29, 32-33, 42, and 43 of Application 10/469698; claims 13-28, 31-32, and 40 of Application 10/469074 as compared to the Final Rejection filed on Feb. 23, 2007, page 2 (fifth par.). The Examiner's Answer does not clearly address the nonstatutory obviousness-type double claims.

Clarification of the record is required for all Grounds of rejection to be reviewed on appeal for all claims.

CONCLUSION

Accordingly, it is **ORDERED** that the application be returned to the Examiner:

- 1) to vacate the Examiner's Answer mailed Nov. 16, 2007;
- 2) to generate a new Examiner's Answer setting forth clarification of the nonstatutory obviousness-type double patenting claims in the Grounds of rejection to be reviewed on appeal and to correct other sections of the Answer as may be required; and
- 3) for such further action as may be required.

If there are any questions pertaining to this order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

DMS/rwk

cc: GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON VA 20191